

REMARKS

Applicants respectfully request reconsideration of the application including consideration and allowance of claims 4-23 that are pending in the above-identified patent application. Applicants have canceled claims 1-3 and added new claims 4-23. No new matter has been added by the claim amendments.

Applicants have requested that the Examiner review and accept the proposed amendments to the drawings shown in marked-up form on the annotated sheets showing changes, and in clean form on the replacement sheets. No new matter has been added by the drawing changes.

Applicants have requested that the Examiner review and approve the attached substitute specification, which is provided in marked-up form and in clean form. No new matter has been added by the substitute specification.

At pages 2-3 of the Office Action, the Examiner objected to the disclosure and the drawings as to numerous informalities. In response, Applicants have amended the specification vis-a-vis the attached substitute specification and have amended the drawings vis-a-vis the attached replacement sheets to address the Examiner's objections. Accordingly, Applicants submit that the Examiner's objections have been overcome and should be withdrawn.

At page 3 of the Office Action, the Examiner rejected claims 1-2 under 37 U.S.C. §112, second paragraph, as failing to properly define the invention. In response, Applicants have cancelled claims 1-3 and submitted new claims 4-23. Applicants respectfully submit that new claims 4-23 are in proper form for U.S. practice and properly define the invention. Accordingly, Applicants respectfully request that the Examiner withdraw his §112, second paragraph, rejection.

At pages 3-4 of the Office Action, the Examiner rejected claim 2 under 37 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,566,765 ("the '765 patent"). The

Examiner also rejected claim 3 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,002,132 (“the ‘132 patent”). In view of Applicant’s cancellation of claims 1-3, it is submitted that the Examiner’s §102(b) rejections should be withdrawn.

Although the Examiner has not had an opportunity to apply the cited art against new independent claims 4 and 17 (or dependent claims thereof) of the instant application, Applicants make the following remarks as to their patentability. The ‘132 patent is directed to a horse shoe including a first plastic polymer having a first durometer, and a second plastic polymer having a second durometer higher than the first durometer. As shown in FIGs. 4-7 and discussed at column 2, lines 14-51 of the ‘132 patent, the disclosed horse shoe includes a low density material 18 molded over a higher density material 12 to form the horse shoe 10. Notably, the lower density material 18 does not overlie a sole portion of the horse’s hoof when in use. Further, the shoe is designed such that the lower density material 18 contacts the horse’s hoof. (Col. 3, lns. 13-19.)

In contrast, new independent claim 4 of the instant application recites “a second part extending from the first part to overlie a sole portion of the horse’s hoof, the second part being formed from a material exhibiting a second amount of resiliency wherein the second amount of resiliency is greater than the first amount of resiliency.” Applicants submit that at least for this reason independent claim 4 (and its dependent claims) of the instant application are patentable over the ‘132 patent.

U.S. Patent No. 4,892,150 (“the ‘150 patent”) is directed to a horse shoe including upwardly extending tabs that originate from an outer edge of the horse shoe for contact with an outer side wall of the horse’s hoof for attaching the horse shoe to the hoof. Notably, the tabs extend from the outer peripheral edge of the horse shoe.

In contrast, new independent claim 17 of the instant application recites “flaps operable to couple the shoe to the horse’s hoof, the flaps extending from at least one of the first and second parts of the shoe inward from the outer edge of the first part such that the outer edge of the shoe may be trimmed when fitted to the horse’s hoof without interfering

with the flaps." Applicants submit that at least for this reason independent claim 17 (and its dependent claims) are patentable over the '150 patent.

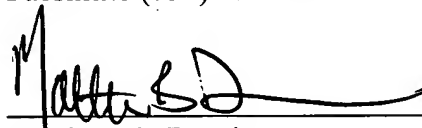
In view of the foregoing, Applicants submit that the instant claims are in condition for allowance. Early and favorable action is earnestly solicited.

The Examiner is authorized to charge any shortages or credit any overpayments to our Deposit Account No. 11-0223.

Respectfully submitted,

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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal service as first class mail, in a postage prepaid envelope, addressed to Mail Stop Non-Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on March 8, 2004.

Dated March 8, 2004 Signed  Print Name Matthew B. Dernier